

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
MIDDLE DIVISION

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PHILLIPPI S. LOWE, Pro Se,
Plaintiffs,

DEBRA P. HACKETT, CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

vs.

CASE NO. 2:06CV133-mef

JURY DEMAND

RICHARD N. SMITH,
ELOISE M. SMITH,
Defendants.

COMPLAINT
Cause of action

This cause of action stem from the original complaint filed Dec. 15, 2005 case no. 2:05CV1181-T and recommended for dismissal Jan. 4th, 2006 by the Honorable Susan Russ Walker United States Magistrate Judge, and subsequently dismissed without prejudice by W. Keith Watkins U.S. District Judge, case no. 2:05CV1181-WKW.

Jurisdiction

The jurisdiction of this Court is involved under diversity of Citizenship 28 U.S.C. section 1332, 28 U.S.C. 1441 et seq. in that Defendants Richard N. Smith, and Eloise M. Smith lives in another state (Pensacola Florida) this being an action authorized by law solely on diversity of citizenship to recover medical, damages, injuries, and lost to drinking and driving spree of Defendants Richard N. Smith and Eloise M. Smith who was also charged with causing the auto accident, which the (racist all white) Florida Highway Patrol had no choice.

Parties

1. Plaintiff, PHILLIPPI S. LOWE, a U.S. Navy Vietnam

era Veteran, and a resident of Conecuh County, Alabama.

2. Defendant, RICHARD N. SMITH, is a resident of Pensacola Florida.

3. Defendant, ELOISE M. SMITH, is a resident of Pensacola Florida.

Statement of Facts

5. On or about September 4, 2002, in Escambia County Florida, while traveling on Florida Highway U.S. Alt 90 with Mrs. Frieson, Plaintiff, stopped by a traffic light at the intersection of Pine Forest Road, while waiting for traffic light to change from red to green.

6. Defendant Richard N.(Eloise) Smith was on a drinking alcohol and driving spree, while traveling on Florida Highway U.S. Alt 90 was traveling at a speed which he could not control his vehicle, and hit vehicle driven by Plaintiff in the rear. Plaintiff Phillippi Lowe, paramedics and Florida Highway Patrol notice immediately that Defendant Richard N. Smith was under the influence of alcohol by smell, slurring speech, staggering, and etc. **The Florida Highway Patrol charged Richard (Eloise) Smith with causing the accident (careless driving) only, when it was clear to everyone at the scene that Richard N. Smith was drunk.**

7. Defendant, ELOISE M. SMITH, knowing Richard Smith had been drinking, and knowing that it is against the law,

to drink (alcohol) and drive, Mrs. Eloise let Richard Smith drive her insured (USAA) car, which caused a accident body injuries, medical expense, property damages, un-repairable damages lost to ElecChem Space & Medical Technology Inc., SEED association, and CFS film & Electronics Inc. Plaintiff Phillippi S. Lowe further allege that he was openly discriminated against by the (all white Officers present at the scene) Pensacola branch of Florida Highway Patrols, because he is a black minority, and from Alabama, the Florida Highway Patrols (after talking to Mr. Smith privately and to aid the white Defendants) the all white Florida Highway Patrol would not administer a sobriety test that would have resulted in Richard N. Smith, and Eloise M. Smith being arrested. The Pensacola branch of the Florida Highway Patrols failure to enforce the traffic laws, because Plaintiff was black, and Defendants was white allowing the law to be broken by the Smith's, could have resulted in the death or injuries to another motorist or even themselves. **Plaintiff will show:** Monroeville Alabama Judge and citizen O.L. Biggs was arrested for allegedly drinking and driving in (on or about 2002, 2003) Pensacola Florida, and subject to all Florida State laws, media abuse and etc. although he was not involved in auto accident defendants Richard N. (Eloise) Smith citizens of Pensacola Florida was on a drinking alcohol and driving spree causing

auto accident, injuries (plaintiff was taken to hospital for emergency treatment from scene of auto accident as a result) the drunken Smith's were **not arrested or subject to the same Florida State laws as Alabama Judge O. L. Biggs.**

Count 1

8. This action is one at law brought for the Civil and criminal action of Richard N. Smith, and Eloise M. Smith drinking alcohol and driving spree, causing accident bodily injuries, property damages, medical expenses, Inc./ Association lost etc. Plaintiff cannot redress the deprivation under color of statute, ordinance, regulation custom or usage of a right, privilege, immunity secured to the Plaintiff by the Fifth, and Fourteenth Amendment to the Constitution of the United States, Plaintiff is not able to pursue the racist felony acts of the (all white) Florida Highway Patrol, present at the scene, because their names are unknown.

9. Plaintiff incorporates by reference Paragraphs 1 through 8 above and re-alleges the same as it fully and completely set out herein. **Evidences marked exhibit A B C,** Plaintiff rely only on diversity of citizenship to pursue known defendant Richard N. Smith and Eloise M. Smith for causing auto accident, damages, lost, and injuries as a result of defendant drinking alcohol driving spree.

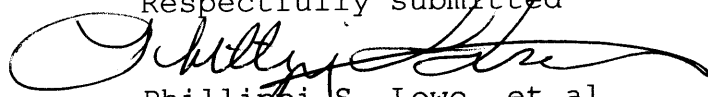
WHEREFORE, Plaintiff demands judgment against the

Defendants in the sum of SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00) each, medical expense, pain, punitive, property damages the felonies, torts, civil, and criminal action committed by Richard N. Smith, and Eloise M. Smith, interest the cost of this action, and reasonable attorney fees as provided for by statute.

JURY DEMAND

Plaintiff respectfully demand a trial by jury.

Respectfully submitted



Phillippi S. Lowe, et al.
P.O. Box 368
Evergreen, Alabama 36401
(334) 284-6888

Defendants may be served as follows:

Mr. Richard N. Smith
3237 Tallship Lane
Pensacola, Florida 32526

Mrs. Eloise M. Smith
3237 Tallship Lane
Pensacola, FL. 32526

SERVICE NOTICE ACCORDING TO LAW

Secretary of State
Glenda Hood
R.A. Gray Building
500 South Bronough Street
Tallahassee, Fla. 32399

INCORPORATION COURTESY INCORPORATION NOTICE

USAA Insurance Company
P.O. Box 659461
San Antonio, TX 78265